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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,666	12/16/2003	Tsafrir Ben-Ari	2036/16	2835

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EXAMINER
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SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/735,666

Applicant(s)

BEN-ARI, TSAFRIR

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 6 & 12/2004.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9,12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Jr. et al (US PUB 2004/0177462). Brown discloses a toothbrush comprising a head (16) and a handle (not shown) (paragraph 0030, lines 1-3) together defining an axis and further including a plurality of brush elements (30) including a single tuft of bristles and having a minimal dimension parallel to the axis and further wherein the brush elements (30) are movable from a released state (see figure 15) and further including a motion delineating configuration (eg, figs 16A-16C) that defines a preferred direction of deflection which is angled with respect to the axis (at least those elements at the ends of the head; see figure 2). The particular dimension and the angle would be obvious to one of ordinary skill as such would involve only subtle changes still within the teaching of the prior art.

3. Claims 1-10,12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun et al (USP 6,553,604). The patent to Braun discloses a toothbrush (8) comprising a head (12), handle (10) and a plurality of brush elements (16) comprised of a single bristle tuft (column 2, lines 35-40) wherein each of the brush elements are adapted to deflect from a released state normal to the head to a deflected

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state (figure 3). With respect to the dimension, the elements (16) of Braun are single tufts and as such would be relatively small in a dimension parallel to the axis.

Modification thereof within the basic teaching of the prior art would be obvious to one of ordinary skill. At least some of the brush elements adjacent the side (eg, the four elements adjacent the free end of the head) of the head (12) are oriented such that they would deflect at an acute angle with respect to the axis of the head/handle (see figure 1). Any modification of the angle within the basic teaching of Braun would be obvious to one of ordinary skill in the art.

4. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun et al (USP 6,553,604) as applied to claims 1 and 8 above, and further in view of Bradley (USP 5,398,366). The patent to Braun discloses the invention substantially as claimed with the exception of the pivot pin and the sliding element. The patent to Bradley discloses a brush element (104) hinged to move relative to the head (14) about pins (100,102) received in sockets (eg, 156,158) as well as an embodiment wherein the brush elements are slidably mounted (figures 11-12) in slots (eg, 220,222) in the head. It would have been obvious to one of ordinary skill to have modified the brush of Braun as such since it is shown to be an equivalent structure for providing movement of a brush element (in a toothbrush) along or about an axis at an acute angle relative to the handle/head axis.

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**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the cited patents are pertinent to toothbrushes including brush elements which are movably mounted to the head.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

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